United Nations A/C.3/57/L.91

General Assembly

Distr.: Limited
30 April 2003

Original: English

Fifty-seventh session
Third Committee
Agenda item 109 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Khmer Rouge trials

Programme budget implications of draft resolution A/C.3/57/L.90

Statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly

1. Under the terms of operative paragraphs 1 and 3 of draft resolution A/C.3/57/L.90, the General Assembly, taking note of the report of the Secretary-General on Khmer Rouge trials (A/57/769), would:

(a) Approve the draft agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea contained in the annex to the resolution;

(b) Decide that the expenses of the Extraordinary Chambers to be defrayed by the United Nations in accordance with the relevant provisions of the draft agreement should be borne by voluntary contributions from the international community as indicated in paragraph 9 of General Assembly resolution 57/228, and appeal to the international community to provide assistance, including financial and personnel support to the Extraordinary Chambers.

2. In connection with operative paragraph 3 of the draft resolution, relating to the financing of the expenses of the Extraordinary Chambers to be defrayed by the United Nations from extrabudgetary contributions, the attention of the Committee is drawn to section VI of General Assembly resolution 45/248 B, in which the Assembly reaffirmed that the Fifth Committee is the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters; reaffirmed also the role of the Advisory Committee on Administrative and Budgetary Questions; expressed its concern at the tendency of its substantive Committees and other intergovernmental bodies to involve

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themselves in administrative and budgetary matters; and invited the Secretary-General to provide all intergovernmental bodies with the required information regarding procedures for administrative and budgetary matters.

3. Should the General Assembly decide that the assistance which the United Nations would provide to the Extraordinary Chambers under any agreement with the Government of Cambodia would be financed from voluntary contributions, the process of setting up the Extraordinary Chambers, including the hiring of personnel, procurement of equipment and other operational and logistical requirements, could be initiated only when sufficient contributions were in place to fund, for a sustained period of time, the necessary personnel, the operations of the Chambers and related Headquarters backstopping. In the report of the Secretary-General, notwithstanding that not all parameters were available, it was estimated that an amount in excess of $19 million would be required for the establishment and operation of the Extraordinary Chambers, the Prosecutors' Office, the co-investigating judges, the Pre-Trial Chamber and the Office of Administration. This amount excludes provisions for the remuneration of defence counsel who might be assigned to indigent accused and the costs of prosecutorial and investigative activities, supplies and materials, printing, miscellaneous contractual services, general temporary assistance, travel of witnesses from within Cambodia and abroad, alteration and minor improvements of premises provided by the Government of Cambodia, and the cost of utilities and services for the operation of the Extraordinary Chambers and related institutions.

4. The assistance to be provided by the United Nations would operate in accordance with the Financial Regulations and Rules of the United Nations, the Staff Regulations and Rules of the United Nations and the relevant resolutions of the General Assembly, including those which apply to gratis personnel under the terms of resolution 51/243.

5. The attention of the Committee is drawn to paragraph 59 of the report of the Secretary-General, in which it is recommended that, should the General Assembly decide to approve the draft agreement, a specific decision be taken to deem the international judges, the international co-prosecutor and the international co-investigating judge to be officials of the United Nations for the purposes of their terms and conditions of service

6. While the draft resolution does not explicitly address this issue, the Secretary-General assumes that, in adopting the draft resolution, the General Assembly agrees that those officials would be deemed officials of the United Nations.